



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### SB0752

Introduced 2/3/2015, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/7.14	from Ch. 23, par. 2057.14
325 ILCS 5/7.16	from Ch. 23, par. 2057.16
325 ILCS 5/7.18	from Ch. 23, par. 2057.18

Amends the Abused and Neglected Child Reporting Act. Provides that the Department of Children and Family Services shall, by rule, prescribe retention periods of no longer than 2 years for indicated reports involving inadequate food, inadequate shelter, inadequate supervision, inadequate clothing, environmental neglect, lockout, and other categories as may be determined by the Department. Provides that nothing in this provision shall prohibit the Department from retaining an indicated report for up to 5 years in the foregoing categories of reports when there exist aggravated circumstances, as defined by rule. In a provision concerning appeals, provides that the Department shall, by rule, establish conditions under which an indicated report that has been properly appealed may be expunged upon completion of a course of services prescribed by the Department. Provides that notwithstanding the expiration of the deadline for appealing an indicated report and notwithstanding the previous issuance of a final administrative decision, the Director of the Department or his or her designee shall expunge from the central register either an indicated report or the name of a specified perpetrator if a court of law has found that either the alleged abuse or neglect, or the responsibility of the individual, was not established either by probable cause or by a preponderance of the evidence, provided that such court finding arises from the same nucleus of operative facts as the indicated report. Requires the Department to establish, by rule, a process for requesting relief on the basis of such court findings. Effective immediately.

LRB099 05641 KTG 25681 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Abused and Neglected Child Reporting Act is  
5 amended by changing Sections 7.14, 7.16, and 7.18 as follows:

6 (325 ILCS 5/7.14) (from Ch. 23, par. 2057.14)

7 Sec. 7.14. All reports in the central register shall be  
8 classified in one of three categories: "indicated",  
9 "unfounded" or "undetermined", as the case may be. Prior to  
10 classifying the report, the person making the classification  
11 shall determine whether the child named in the report is the  
12 subject of an action under Article II of the Juvenile Court Act  
13 of 1987. If the child is the subject of an action under Article  
14 II of the Juvenile Court Act of 1987 and the Department intends  
15 to classify the report as indicated, the Department shall,  
16 within 45 days of classification of the report, transmit a copy  
17 of the report to the attorney or guardian ad litem appointed  
18 for the child under Section 2-17 of the Juvenile Court Act of  
19 1987. If the child is the subject of an action under Article II  
20 of the Juvenile Court Act of 1987 and the Department intends to  
21 classify the report as unfounded, the Department shall, within  
22 45 days of deciding its intent to classify the report as  
23 unfounded, transmit a copy of the report and written notice of

1 the Department's intent to the attorney or guardian ad litem  
2 appointed for the child under Section 2-17 of the Juvenile  
3 Court Act of 1987. All information identifying the subjects of  
4 an unfounded report shall be expunged from the register  
5 forthwith, except as provided in Section 7.7. Unfounded reports  
6 may only be made available to the Child Protective Service Unit  
7 when investigating a subsequent report of suspected abuse or  
8 maltreatment involving a child named in the unfounded report;  
9 and to the subject of the report, provided the Department has  
10 not expunged the file in accordance with Section 7.7. The Child  
11 Protective Service Unit shall not indicate the subsequent  
12 report solely based upon the existence of the prior unfounded  
13 report or reports. Notwithstanding any other provision of law  
14 to the contrary, an unfounded report shall not be admissible in  
15 any judicial or administrative proceeding or action.  
16 Identifying information on all other records shall be removed  
17 from the register no later than 5 years after the report is  
18 indicated. However, if another report is received involving the  
19 same child, his sibling or offspring, or a child in the care of  
20 the persons responsible for the child's welfare, or involving  
21 the same alleged offender, the identifying information may be  
22 maintained in the register until 5 years after the subsequent  
23 case or report is closed.

24 The Department shall, by rule, prescribe retention periods  
25 of no longer than 2 years for indicated reports involving  
26 inadequate food, inadequate shelter, inadequate supervision,

1 inadequate clothing, environmental neglect, lockout, and other  
2 categories as may be determined by the Department. Nothing in  
3 this Section prohibits the Department from retaining an  
4 indicated report for up to 5 years in the foregoing categories  
5 of reports when there exist aggravated circumstances, as  
6 defined by rule.

7 Notwithstanding any other provision of this Section,  
8 identifying information in indicated reports involving serious  
9 physical injury to a child as defined by the Department in  
10 rules, may be retained longer than 5 years after the report is  
11 indicated or after the subsequent case or report is closed, and  
12 may not be removed from the register except as provided by the  
13 Department in rules. Identifying information in indicated  
14 reports involving sexual penetration of a child, sexual  
15 molestation of a child, sexual exploitation of a child, torture  
16 of a child, or the death of a child, as defined by the  
17 Department in rules, shall be retained for a period of not less  
18 than 50 years after the report is indicated or after the  
19 subsequent case or report is closed.

20 For purposes of this Section "child" includes an adult  
21 resident as defined in this Act.

22 (Source: P.A. 97-333, eff. 8-12-11; 98-453, eff. 8-16-13;  
23 98-807, eff. 8-1-14; revised 11-25-14.)

24 (325 ILCS 5/7.16) (from Ch. 23, par. 2057.16)

25 Sec. 7.16. For any investigation or appeal initiated on or

1 after, or pending on July 1, 1998, the following time frames  
2 shall apply. Within 60 days after the notification of the  
3 completion of the Child Protective Service Unit investigation,  
4 determined by the date of the notification sent by the  
5 Department, the perpetrator named in the notification may  
6 request the Department to amend the record or remove the record  
7 of the report from the register, except that the 60-day  
8 deadline for filing a request to amend the record or remove the  
9 record of the report from the State Central Register shall be  
10 tolled until after the conclusion of any criminal court action  
11 in the circuit court or after adjudication in any juvenile  
12 court action concerning the circumstances that give rise to an  
13 indicated report. Such request shall be in writing and directed  
14 to such person as the Department designates in the notification  
15 letter notifying the perpetrator of the indicated finding. The  
16 perpetrator shall have the right to a timely hearing within the  
17 Department to determine whether the record of the report should  
18 be amended or removed on the grounds that it is inaccurate or  
19 it is being maintained in a manner inconsistent with this Act,  
20 except that there shall be no such right to a hearing on the  
21 ground of the report's inaccuracy if there has been a court  
22 finding of child abuse or neglect or a criminal finding of  
23 guilt as to the perpetrator. Such hearing shall be held within  
24 a reasonable time after the perpetrator's request and at a  
25 reasonable place and hour. The appropriate Child Protective  
26 Service Unit shall be given notice of the hearing. If the

1 minor, who is the victim named in the report sought to be  
2 amended or removed from the State Central Register, is the  
3 subject of a pending action under Article II of the Juvenile  
4 Court Act of 1987, and the report was made while a guardian ad  
5 litem was appointed for the minor under Section 2-17 of the  
6 Juvenile Court Act of 1987, then the minor shall, through the  
7 minor's attorney or guardian ad litem appointed under Section  
8 2-17 of the Juvenile Court Act of 1987, have the right to  
9 participate and be heard in such hearing as defined under the  
10 Department's rules. In such hearings, the burden of proving the  
11 accuracy and consistency of the record shall be on the  
12 Department and the appropriate Child Protective Service Unit.  
13 The hearing shall be conducted by the Director or his designee,  
14 who is hereby authorized and empowered to order the amendment  
15 or removal of the record to make it accurate and consistent  
16 with this Act. The decision shall be made, in writing, at the  
17 close of the hearing, or within 60 days thereof, and shall  
18 state the reasons upon which it is based. Decisions of the  
19 Department under this Section are administrative decisions  
20 subject to judicial review under the Administrative Review Law.

21 The Department shall, by rule, establish conditions under  
22 which an indicated report that has been properly appealed under  
23 this Section may be expunged upon completion of a course of  
24 services prescribed by the Department.

25 Should the Department grant the request of the perpetrator  
26 pursuant to this Section either on administrative review or

1 after an administrative hearing to amend an indicated report to  
2 an unfounded report, or upon completion of a course of services  
3 prescribed by the Department, the report shall be released and  
4 expunged in accordance with the standards set forth in Section  
5 7.14 of this Act.

6 (Source: P.A. 98-453, eff. 8-16-13; 98-487, eff. 1-1-14;  
7 98-756, eff. 7-16-14.)

8 (325 ILCS 5/7.18) (from Ch. 23, par. 2057.18)

9 Sec. 7.18. Pursuant to Sections 7.15 and 7.16 and for good  
10 cause shown, the Child Protective Service Unit may amend any  
11 report previously sent to the State-wide center. Unless  
12 otherwise prescribed by this Act, the content, form, manner and  
13 timing of making the reports shall be established by rules of  
14 the Department.

15 Notwithstanding the expiration of the deadline set forth in  
16 Section 7.16 for appealing an indicated report and  
17 notwithstanding the previous issuance of a final  
18 administrative decision, the Director or his or her designee  
19 shall expunge from the central register either an indicated  
20 report or the name of a specified perpetrator if a court of law  
21 has found that either the alleged abuse or neglect, or the  
22 responsibility of the individual, was not established either by  
23 probable cause or by a preponderance of the evidence, provided  
24 that such court finding arises from the same nucleus of  
25 operative facts as the indicated report. The Department shall

1 establish, by rule, a process for requesting relief on the  
2 basis of such court findings.

3 (Source: P.A. 81-1077.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.